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**Commission on Ethics &
Public Trust
Miami-Dade County**

Memorandum

To: The Honorable Carlos Alvarez, Mayor
Miami-Dade County

The Honorable Chairperson, Joe Martinez
Members, Board of County Commissioners

From: Robert Meyers, Executive Director, Commission on Ethics and Public Trust

Date: September 6, 2005

Re: Final Audit Report – Carlos Alvarez Election Campaign 2004

Attached is your copy of the above-referenced final audit report.

Overall, the COE found that the campaign expenditures made from the Carlos Alvarez campaign account were in full compliance with the requirements of Miami-Dade County Code §12-22 (G), "Use of Funds," as no disallowed expenses were paid with public funds. However, the COE did observe a few minor instances of noncompliance with Florida Statutes Title IX, Chapter 106, "Campaign Financing," which accounted for approximately 1% of the \$1,569,107.46 total campaign expenditures.

cc: Jose Riesco, CPA, Campaign Treasurer
Kerry Rosenthal, Chairman, Commission on Ethics and Public Trust
Lester Sola, Supervisor of Elections

**COMMISSION ON ETHICS & PUBLIC TRUST
POST-ELECTION AUDIT OF THE CAMPAIGN ACCOUNT OF**

**CARLOS ALVAREZ
FOR MAYOR CAMPAIGN 2004**

EXECUTIVE SUMMARY

Item No.	Audit Finding	FL Statute / County Code Violation	Comments
1	The campaign paid approximately \$4,664 in reimbursements for campaign expenses which Florida statutes do not allow to be paid as reimbursements. (p. 6)	FL Stats. §106.021(3) states that reimbursements may be made only for travel, food and beverage, office supplies, and mementos of gratitude to campaign supporters.	The Carlos Alvarez campaign issued reimbursements for printing costs, palm cards, campaign flyers, cell phone charges, satellite services and television rental costs. To maintain full public disclosure, these types of costs should be paid directly from the campaign bank account to the goods and services providers.
2	The COE auditor found insufficient supporting documentation (i.e., no vendor receipts or invoices) for campaign expenses totaling approximately \$10,640. (pp. 7-9)	Florida Statute §106.11(1)(b)(1)-(6) and Miami-Dade County Code §12-22, Subsection (f)(3)(a)(1) require the campaign to maintain adequate supporting documentation for all campaign expenditures.	Based on review of the campaign records and inquiry of the Campaign Treasurer, there were a few instances where individuals received reimbursements without providing vendor receipts or vendor invoices in support of the reimbursement check paid by the campaign.
3	The campaign paid ten (10) fines, totaling \$753, throughout the campaign. The fines were related to political sign violations issued by Miami-Dade Team Metro and parking violations. (p. 7)		The Florida Division of Elections has advised the COE that fines paid from the campaign account for such expenses as code violations due to political sign advertisements or traffic violations are not considered campaign expenditures and should not be paid with campaign funds.

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**CARLOS ALVAREZ
FOR MAYOR CAMPAIGN 2004**

EXECUTIVE SUMMARY

**Commission on Ethics & Public Trust
Post-Election Audit of the Campaign Account of
Mayoral Candidate Carlos Alvarez**

INTRODUCTION

In March of 2001, the Miami-Dade County Board of County Commissioners adopted Ordinance No. 01-39 (the Ordinance) for campaign financing reform and is codified in Miami-Dade County Code §12-22. The Ordinance is intended to make the political process more accessible to candidates who run for the office of County Mayor or Commissioner by providing eligible candidates with public financing from the Election Campaign Financing Trust Fund (the Fund).

The Ordinance establishes the eligibility requirements that a candidate must meet in order to receive public financing from the Fund. For the office of County Commissioner, each candidate who satisfies these requirements may be eligible for a maximum contribution of \$75,000 in the primary election, and an additional \$50,000 if a run-off election occurs. For the office of Mayor, each candidate who satisfies the eligibility requirements may receive \$300,000 for the primary election and an additional \$200,000 if the candidate is in a run-off election.

Additionally, the Ordinance requires the Commission on Ethics & Public Trust (COE) to conduct post-election audits ninety (90) days following the date of the election for those candidates who received public financing from the county. This is in keeping with both the requirements of §12-22 (f)(6) of the Code of Miami-Dade County and Florida Statute §106.141 (4), which require that the candidate dispose of any surplus funds remaining in the campaign account within 90-days of the election date by: (1) returning all surplus funds to the Election Campaign Financing Trust Fund; and, (2) any funds remaining in the campaign account that are in excess of the public funding received should be disposed of per Florida Statute §106.141, Disposition of Surplus Funds.

Accordingly, the COE conducted a post-election audit of the campaign account of Carlos Alvarez, mayoral candidate, who received a total of \$500,000 in public funding; \$300,000 for the primary election held on August 31, 2004 and an additional \$200,000 for the run-off election held on November 2, 2004.

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PURPOSE & SCOPE OF THE AUDIT

The post-election audit conducted by the COE focuses primarily on campaign expenditures as other Miami-Dade county agencies have been involved in current, on-going examinations of all campaign contributions for those candidates who received public monies. Therefore, the COE focused on the following audit objectives:

1. Verify that the candidate complied with County Code §12-22 (e)(1), which sets forth the expenditure limits for those candidates who receive public financing.
2. Verify that the candidate complied with County Code §12-22 (g), “Use of Funds,” which states the following six (6) types of expenditures that public funds **cannot** be used for:
 - a. Clothing for a candidate or an immediate family member of the candidate, except for a political advertisement as defined in Florida Statute §106.001 (17). An immediate family member is defined as the spouse, parents, children, and siblings of the candidate.
 - b. The purchase or rental of any vehicle for a candidate.
 - c. The enhancement of any vehicle owned by a candidate or an immediate family member of the candidate.
 - d. Personal grooming or cosmetic enhancements for a candidate.
 - e. Payment to a candidate or an immediate family member for the purchase of any goods or services.
 - f. Payment to any corporation, firm, partnership, or business entity owned or controlled by a candidate or an immediate family member for the purchase of any goods or services. “Controlled by” shall mean ownership, directly or indirectly, of 5% or more of the outstanding capital stock in any corporation, or direct or indirect interest of 5% or more in a firm, partnership, or other business entity.
3. Verify that the candidate disposed of any surplus funds remaining in the campaign account within 90-days following the election as required by County Code §12-22 (F) (6) and Florida Statute §106.141 (4).
4. Review for compliance with applicable sections of Florida Statute Title IX, Chapter 106, “Campaign Financing.”

The COE obtained copies of all bank statements and cancelled checks drawn against the campaign account, original and/or copies of vendor invoices and receipts, as well as any other accounting records, contracts and/or documentation which would substantiate the amount and purpose of the candidate’s campaign expenditures.

The scope of the audit encompassed the period of July 28, 2003 through January 31, 2005, which coincides with the timeframe the campaign account was opened and subsequently closed by the candidate. Additionally, the COE audited 100% of all campaign expenditures as reflected on the Campaign Treasurer’s Reports.

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SUMMARY OF CAMPAIGN ACCOUNT ACTIVITY

Based on review of the Campaign Treasurer's Reports, the Carlos Alvarez campaign had a total of \$1,569,107.46 available to run the candidate's election campaign. Of the total \$1,569,107.46 in campaign funds, \$500,000 (approximately 32%) was received from the County's public trust fund and the remaining \$1,069,107.46 was acquired through private contributions and in-kind services. A breakdown of how the campaign funds were spent is illustrated in Table I. below and categorized by expense type:

TABLE I.

BREAKDOWN OF EXPENSES			
Expense Type	Dollar Amount of Expenses	% of Total Expenses	Allowable per Code §12-22 (g) OR FL Stats?
Advertising	\$ 1,415,788.04	90.23	Yes
Consulting Fees	38,269.48	2.44	Yes
Promotion	23,546.49	1.50	Yes
Accounting Fees	18,704.21	1.19	Yes
Printing	16,646.16	1.06	Yes
Rent	16,325.00	1.04	Yes
Meals	15,870.67	1.01	Yes
Telephone	7,254.18	.40	Yes
Reimbursements ¹	10,429.90	.60	Yes / No
Filing Fees – BCC	2,227.94	.14	Yes
Postage	1,102.60	.07	Yes
Fines ²	753.00	.05	No
Return of Contributions	715.00	.05	Yes
Office Supplies	700.05	.04	Yes
Insurance	518.51	.03	Yes
Bank fees	256.23	.02	Yes
TOTAL:	\$1,569,107.46	100%	

The COE notes that the expense classifications used in Table I. above were taken from the description on the Campaign Treasurer's Reports filed with the Miami-Dade County Department of Elections. In other words, the COE ***did not*** create these expense classifications; rather, the COE used the expense descriptions found in the candidate's campaign records.

¹ These expense reimbursements were ***generally*** in compliance with Florida Statute §106.021(3), which allows for the candidate or any other individual to be reimbursed for certain expenditures, specifically: travel, food and beverages, office supplies, and mementos expressing gratitude to campaign supporters. However, the campaign also issued reimbursements for palm cards, cell phones, campaign flyers, and equipment rentals on behalf of the campaign. These campaign expenses are not allowed to be paid as reimbursements per Florida Statute §106.021(3).

² The campaign paid for parking fines and code violations involving campaign signs using campaign funds, which the Florida Division of Elections has opined are not allowed to be paid for with campaign funds.

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CANDIDATE’S COMPLIANCE WITH COUNTY CODE § 12-22

a. Compliance with Campaign Expenditures Limit

Miami-Dade County Code §12-22 (e) requires that Mayoral candidates who request public funding from the Elections Campaign Financing Trust Fund limit their campaign contributions and expenditures to \$600,000 for the primary election unless one candidate exceeds the established contribution limit. On November 25, 2003, the campaign contribution limit was lifted for the Mayoral race, as one candidate exceeded the contribution limit by raising contributions in excess of the \$600,000 limit. Therefore, as a result of the expenditure limit being lifted for the Mayoral campaign, candidates were able to raise contributions in excess of the established limits set for both the primary and run-off elections (i.e. \$600,000 and \$400,000, respectively).

b. Compliance with County Code §12-22, Subsection (g) “Use of Funds”

To verify the candidate’s compliance with Code §12-22 (g), “Use of Funds,” the COE reviewed all campaign expenses and verified that the public funding portion of the campaign account was not used to pay for: clothing for the candidate or their immediate family member, except for a political advertisement as defined in Florida Statute §106.001(17); the purchase or rental of any vehicle for a candidate; the enhancement of any vehicle owned by a candidate or an immediate family member of the candidate; or personal grooming or cosmetic enhancements for a candidate.

Additionally, for payments made to individuals from the campaign account, the COE researched whether the payee was an immediate family member of the candidate. “Immediate family member” refers to the candidate’s spouse, parents, children, and siblings. For payments made to business entities from the campaign account for the purchase of goods or services, the COE researched whether the business entity is owned or controlled by the candidate or an immediate family member of the candidate.

Based on our review, the COE concludes that the candidate complied with all requirements of Code §12-22 (g), “Use of Funds,” as no payments were made from the campaign account for disallowed expenditures per the County code.

NO EXCEPTIONS NOTED.

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c. Compliance with County Code §12-22, Subsection (f)(6) “Disposal of Surplus Funds”

County Code §12-22 (f)(6) and Florida Statute §106.141(4) require that the candidate dispose of any surplus funds remaining in the campaign account within 90 days after the election date in the following manner: (1) return all surplus funds to the county’s Election Campaign Financing Trust Fund; and, (2) any funds remaining in the campaign account that are in excess of the county’s public funding received should be disposed of per Florida Statute §106.141, Disposition of Surplus Funds. Given that the run-off election was held on November 30, 2004, the 90-day period for returning any surplus funds ended on January 31, 2005.

Based on review of the campaign’s final bank statement for the period ended January 31, 2005, the COE confirmed that the Campaign Account of Carlos Alvarez for Mayor was closed effective January 31, 2005. The auditor noted that the bank account was zeroed out with a payment of \$149.21 to the Campaign Treasurer for accounting services rendered. Therefore, the campaign account was properly closed within the mandated timeframe.

NO EXCEPTIONS NOTED.

**COMPLIANCE WITH FL STATUTE TITLE IX, CHAPTER 106,
“CAMPAIGN FINANCING”**

Election campaign finance laws are found in Florida Statute Chapter 106, Campaign Financing, and interpretations of these statutes are provided by the Florida Elections Commission as Elections Opinions. As part of this audit, the COE reviewed the relevant Florida statutes and the Elections Opinions to ensure the candidate’s campaign was in substantial compliance with the applicable statutory requirements.

Through inquiry of the Campaign Treasurer for the Carlos Alvarez campaign and review of campaign bank account records, cancelled checks, related vendor invoices, and other supporting documentation for campaign expenditures, the following are the COE’s audit observations with regards to compliance with Florida Statute Chapter 106:

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A. Reimbursements Paid for Disallowed Costs per Florida Statutes

Florida Statute §106.021(3) addresses what is allowable as a reimbursement from a candidate's campaign bank account and specifically states the following:

“...a candidate or any other individual may be reimbursed for expenses incurred for travel, food and beverage, office supplies, and mementos expressing gratitude to campaign supporters by a check drawn upon the campaign account...”

The COE noted the following reimbursements paid to individuals for campaign expenses that should have been paid directly by the campaign to the vendor and/or service provider and not paid as a reimbursement in order to comply with Florida Statute §106.021(3):

- 1) **Kathy Perez-Gurri** invoiced the campaign for \$2,000 on October 30, 2004 for “victory party supplies and volunteers.” Party supplies, not including food and beverages, are not allowed to be paid as a reimbursement under Florida statutes. Ms. Perez-Gurri did not attach any receipts from vendors that would indicate what was purchased for the volunteers or if any of the reimbursement request also included food and/or beverages purchases, which are allowable reimbursements. Therefore, the COE could not definitively verify the validity of the \$2,000 reimbursement paid to Ms. Perez-Gurri. *{See Exhibit A.}*
- 2) **Maria Penedo** invoiced the campaign for cell phone charges totaling \$753.51 and also received \$630 as a reimbursement for payment to “Olmedo Printing” for campaign flyers. Ms. Penedo only provided a vendor receipt from “Olmedo Printing” and no receipts were found from the cell phone service provider. However, Ms. Penedo provided personal credit card statements, which showed charges paid to “Cingular Wireless,” totaling \$753.51. Additionally, Ms. Penedo received reimbursement for \$85.90 for a campaign expense she paid to “People Data.” *{See Exhibit B.}*
- 3) **Jose Perez-Gil** received a \$500 reimbursement for the rental of a television for the campaign victory party, as noted on the Campaign Treasurers Report on November 1, 2004. Florida Statute §106.021 (3) does not allow television rental to be paid as a reimbursement. *{See Exhibit C.}*
- 4) **Sly Garcia** received a \$400 reimbursement for procuring satellite services, as noted on the Campaign Treasurers Report on November 1, 2004. Florida Statute §106.021 (3) does not allow a campaign to issue reimbursement for the procurement of satellite services. *{See Exhibit C.}*
- 5) **Vicente Taboada** was reimbursed \$294.30 for payment to “GTC Media” for palm cards for the Carlos Alvarez for Mayor Campaign. This expenditure should have been paid directly from the campaign bank account to maintain full public disclosure of how the campaign funds are used by the candidate. *{See Exhibit D.}*

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B. Payments of Fines

The Florida Division of Elections has advised the COE that fines paid from the campaign account for such expenses as code violations due to political sign advertisements or traffic violations are not considered campaign expenditures and should not be paid for using campaign funds.

AUDIT FINDING

It was noted that the campaign paid ten (10) fines, which totaled \$753 over the course of the election campaign. The fines were related to political sign violations issued by Miami Dade County's Team Metro and parking violations.

OTHER AUDIT FINDINGS

Insufficient Supporting Documentation for Campaign Expenditures

To verify the candidate's compliance with Code §12-22 (g), "Use of Funds," the COE auditor verified that each campaign expense was supported by adequate documentation (i.e., independent third party documentation such as an invoice or receipt from the vendor that provided the good or service). It should be noted that failure to provide supporting documentation for campaign expenses violates both Florida Statute §106.11(1)(b)(1)-(6) and Miami-Dade County Code §12-22, Subsection (f)(3)(a)(1).

Based on review of all supporting invoices, receipts, cancelled checks and other relevant documents provided to the COE by the Campaign Treasurer, the following was noted by the COE auditor:

- 1) **Maria Penedo**, who provided office management services for the campaign, received \$4,100 as reimbursement for campaign expenses that she personally incurred on behalf of the campaign. To support the reimbursement request, Ms. Penedo provided a one-page invoice to the campaign that itemized expenses, which included food and beverages, campaign and office supplies, and gasoline. Ms. Penedo also attached to the invoice one receipt from a printing vendor, "Olmedo Printing," for \$630 worth of campaign flyers. The COE auditor found no additional receipts for the remaining \$3,470 of campaign expenses for which Ms. Penedo was reimbursed by the campaign.

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Therefore, the COE requested all additional receipts supporting the remaining \$3,470 reimbursement paid to Ms. Penedo by the campaign. On July 22, 2005, the Campaign Treasurer provided a memo from Ms. Penedo, which itemized the campaign expenses in detail, as well as personal credit card statements. However, the COE auditor was not provided with any independent receipts from vendors of goods and services to verify that these expenses were incurred on behalf of Carlos Alvarez Campaign for Mayor. Therefore, there was insufficient documentation to verify the validity of these campaign expenses. *{See Exhibit E.}*

- 2) **Kathy Perez-Gurri** received a payment of \$1,400 on October 31, 2004 and another payment of \$2,000 on November 1, 2004, for a grand total of \$3,400 received from the campaign. Both payments were noted as reimbursements which Ms. Perez-Gurri invoiced to the campaign. The COE auditor did not find any vendor receipts or vendor invoices submitted with either reimbursement request. The only supporting documentation was the invoice submitted by Ms. Perez-Gurri on October 30, 2004 for the \$2,000 reimbursement request. Therefore, there was insufficient documentation to verify the validity of these campaign expenses. *{See Exhibit A.}*
- 3) **Chester Butler** received a \$1,000 reimbursement for food for a fundraiser. The COE auditor reviewed an invoice submitted by Mr. Butler indicating that he purchased “miscellaneous food for fundraiser.” The invoice did not provide a breakdown of how the \$1,000 was spent on food and/or beverages, nor were there any receipts from food vendors attached with Mr. Butler’s invoice. Thus, there was insufficient documentation to verify the legitimacy of this campaign expense. *{See Exhibit F.}*
- 4) **Joe Gutierrez** invoiced and received payment from the campaign for \$1,000 on September 15, 2004 for beverages and ice. The COE auditor could not find any receipts or vendor invoices supporting the detail of Mr. Gutierrez’s purchases noted on the invoice he submitted to the campaign; therefore, the COE was unable to verify the validity of this reimbursement. *{See Exhibit G.}*
- 5) **Raymond Diaz** received \$1,000 as a “victory party food reimbursement,” as noted on the Campaign Treasurers Report on November 2, 2004. Because there were no receipts or invoices submitted by Mr. Diaz for the food purchase, the COE could not definitively verify the validity of the \$1,000 reimbursement for food. *{See Exhibit C.}*
- 6) **Jose Perez-Gil** was paid \$500 for the rental of a television at the campaign’s victory party as noted on the Campaign Treasurers Report on November 1, 2004. Because there were no receipts or invoices submitted for the television rental, the COE could not definitively verify the validity of the \$500 reimbursement. *{See Exhibit C.}*
- 7) **Sly Garcia** received \$400 from the campaign as a reimbursement for paying for satellite services, as noted on the Campaign Treasurers Report on November 1, 2004. Because there were no receipts or invoices submitted for the satellite services, the COE could not definitively verify the validity of the \$400 reimbursement. *{See Exhibit C.}*

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- 8) **Migdalia Fernandez** received a \$150 reimbursement on October 21, 2004 for gasoline associated with delivering campaign signs, t-shirts, etc. The COE auditor did not find any gasoline receipts submitted for the reimbursement and could not verify this campaign expenditure. *{See Exhibit H.}*
- 9) **Eulalia Vale** received a \$150 reimbursement on October 21, 2004 for gasoline associated with delivering campaign signs, t-shirts, etc. The COE auditor did not find any gasoline receipts submitted for the reimbursement and could not verify this campaign expenditure. *{See Exhibit H.}*
- 10) **Cingular Wireless** was paid \$770.38 on May 14, 2004 and was also paid \$261.84 on July 17, 2004 by the campaign. Although these two particular invoices from this vendor were not found in the campaign's records, the COE auditor reviewed the associated cancelled checks and verified that Cingular Wireless did in fact receive these two campaign payments.
- 11) **The Clerk of the Courts** issued a \$60 fine for a sign violation to the campaign in March 2004. The COE auditor did not find the citation in the campaign records subject to this audit. However, the COE auditor reviewed the associated cancelled check and verified that the Clerk of the Courts did in fact receive the campaign's \$60 check payment.

AUDIT CONCLUSION

Overall, the COE found that the campaign expenditures made from the Carlos Alvarez campaign account were in full compliance with the requirements of Miami-Dade County Code §12-22 (G), "Use of Funds," as no disallowed expenses were paid with public funds. However, the COE did observe a few minor instances of noncompliance with Florida Statutes Title IX, Chapter 106, "Campaign Financing" which accounted for approximately 1% of the \$1,569,107.46 total campaign expenditures.

The COE appreciates the cooperation extended by all parties involved with the Carlos Alvarez campaign throughout the course of this audit.

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EXHIBITS

- A. Kathy Perez-Gurri Invoice dated October 30, 2004
- B. Maria C. Penedo Invoice dated November 1, 2004
- C. Campaign Treasurer's Report – J. Perez-Gil, S. Garcia, and R. Diaz's Reimbursements
- D. GTC Media invoice for Palm Cards
- E. Maria C. Penedo Supporting Documentation for \$4,100 Reimbursement
- F. Chester Butler Invoice
- G. Joe Gutierrez Invoice dated September 14, 2004
- H. Reimbursement Check Copies to M. Fernandez and E. Vale

APPENDIX

- 1. Campaign's Response to the Draft Audit Report